

**TO: THE JUDGES, UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA, GAINESVILLE DIVISION**

Defendants Benefit Trucking, Inc., Carolina Casualty Insurance Company, and Shain Ford, remove the civil action captioned *Marie Doriscar v. Benefit Trucking, Inc., Shain Ford, and Carolina Casualty Insurance Company*, Civil File Action No.: 21-SV-000076, from the State Court of Barrow County, Georgia to the United States District Court for the Northern District of Georgia, Gainesville Division. Removal is based upon the following:

Removal Based on Diversity Jurisdiction Pursuant to 28 U.S.C. § 1441

1. This Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332 and this matter may be removed to this Court under 28 U.S.C. § 1441(a).

Description of Suit

2. On August 4, 2021, Plaintiff Marie Doriscar filed a Complaint against Defendants Benefit Trucking, Inc., Carolina Casualty Insurance Company, and Shain Ford (collectively “Defendants”) alleging negligence related to a motor vehicle accident that occurred on or about September 6, 2019, in Barrow County, Georgia (hereafter “Action”). A true and correct copy of the Complaint is attached hereto as Exhibit A.

3. Defendants filed their Answer in response to Plaintiff’s Complaint on September 16, 2021. A true and correct copy of Defendants’ Answer is attached hereto as Exhibit B.

Compliance with Deadline for Removal

4. Pursuant to 28 U.S.C. §1446(b)(2)(B), each defendant shall have thirty (30) days after receipt by or service on that defendant of the initial pleading or summons to file the notice of removal.

5. Defendant Benefit Trucking, Inc. was served with Summons and Complaint on August 28, 2021.

6. Defendant Ford was served with Summons and Complaint on or about September 1, 2021.

7. Defendant Carolina Casualty Insurance Company has not yet been properly served with the Complaint, but was purportedly served on or about September 18, 2021. Carolina Casualty Insurance Company consents to this removal.

8. Defendants initiated removal within thirty (30) days of service.

9. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(2)(B)-(C).

Consent for Removal

10. The procedure for removing a case to Federal Court is codified in 28 U.S.C. § 1446 and it requires that all Defendants consent to the removal. *Cook v. Randolph County, Ga.*, 573 F.3d 1143, 1150 (11th Cir. 2009); *Tri-Cities Newspaper, Inc. v. Tri-Cities Printing Pressmen and Assistants' Local 349*, 427 F.2d 325, 326-27 (5th Cir. 1970).

11. Defendants consent to this removal by and through their undersigned counsel of record.

The Diversity of Citizenship Requirement

12. Per the allegations as pled in the Complaint, Plaintiff is a resident of the State of Georgia. *See* Plaintiff's Complaint, ¶ 1.

13. At the time of the collision which is the subject of Plaintiff's Complaint, Defendant Benefit Trucking, Inc. was an Illinois corporation with its principal place of business located in the State of Illinois. Defendant Benefit Trucking, Inc. has since dissolved and was dissolved as of the date Plaintiff initiated her Complaint. Defendant Benefit Trucking, Inc. remained an Illinois corporation with its principal place of business located in the State of Illinois from the date of the subject collision until the date of its dissolution. Declaration of Tina Cheng, attached hereto as Exhibit C, ¶ 4.

14. Defendant Ford is a citizen and resident of the State of Illinois. *Id.* ¶ 5.

15. Defendant Carolina Casualty Insurance Company is an Iowa corporation with its principle place of business located in Urbandale, Iowa. *Id.* ¶ 6.

16. Complete diversity exists in this Action.

The Amount in Controversy Requirement

17. Plaintiff's Complaint seeks a judgement for past medical expenses and non-economic human losses.

18. Prior to filing suit, Plaintiff's counsel sent a letter in which Plaintiff claimed that she incurred medical expenses in excess of Seventy-five Thousand and No/100 Dollars (\$75,000.00) as a result of the subject motor vehicle collision. Exhibit C, ¶ 8.

19. Accordingly, the amount in controversy in this Action exceeds \$75,000.

The State Court Proceeding

20. The state court proceeding is identified as follows: *Marie Doriscar v. Benefit Trucking, Inc., Carolina Casualty Insurance Company, and Shain Ford*, Civil File Action No.: 21-SV-000076, State Court of Barrow County, Georgia. A Notice of Removal will be filed with the state court upon filing of this Notice of Removal.

All State Court Documents

21. All state-court documents required to be filed with this notice are attached hereto: Plaintiff's Complaint (Exhibit "A"), Answer of Defendants Benefit Trucking, Inc., Carolina Casualty Insurance Company, and Shain Ford (Exhibit

“B”), Affidavit of Service of Benefit Trucking, Inc. (Exhibit “D”), and Affidavit of Service of Shain Ford (Exhibit “E”).¹

WHEREFORE, Defendants Benefit Trucking, Inc., Carolina Casualty Insurance Company, and Shain Ford, wish to exercise their rights under the provisions of 28 U.S.C. § 1441, *et seq.* to remove this Action from the State Court of Barrow County, Georgia to the United States District Court, Northern District of Georgia, Gainesville Division.

This 16th day of September 2021.

NALL & MILLER, LLP

BY: s/ Tina Cheng
MICHAEL D. HOSTETTER
Georgia Bar No. 368420
TINA CHENG
Georgia Bar No. 198248

ATTORNEYS FOR DEFENDANTS

235 Peachtree Street, N.E.
North Tower, Suite 1500
Atlanta, Georgia 30303-1905
Phone: 404-522-2200
Fax: 404-522-2208
Email: mhostetter@nallmiller.com
tcheng@nallmiller.com

¹ Plaintiff has not yet filed an Affidavit of Service of Carolina Casualty Insurance Company.

CERTIFICATE OF SERVICE

I hereby certify on this day that a true and correct copy of **NOTICE OF REMOVAL (FEDERAL)** was served electronically by operation of the Court's electronic filing system using the **CM/ECF SYSTEM** to the following attorney(s) of record listed below:

J. Blair Craig
WOOD CRAIG & AVERY, LLC
3520 Piedmont Road, NE
Suite 280
Atlanta, GA 30305
E-Mail: blair@woodcraig.com

This 16th day of September, 2021.

NALL & MILLER, LLP

By: /s/ Tina Cheng
MICHAEL D. HOSTETTER
Georgia Bar No. 368420
TINA CHENG
Georgia Bar No. 198248

ATTORNEYS FOR DEFENDANTS

235 Peachtree Street NE
North Tower, Suite 1500
Atlanta, Georgia 30303
Telephone: 404/522.2200
Facsimile: 404/522.2208
mhostetter@nallmiller.com
tcheng@nallmiller.com